

Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING -- December 14, 1966

Appeal No. 9050 Matthews-Schwartz, Inc., appellant.

The Zoning Administrator of the District of Columbia, appellee.

On motion duly made, seconded and unanimously carried, the following Order was entered at the meeting of the Board on December 14, 1966.

EFFECTIVE DATE OF ORDER - May 2, 1967

ORDERED:

That the appeal for a variance from the side yard requirements of the R-1-B District to permit sundeck and carport at 5339, 5343, 5349, and 5351 MacArthur Blvd., NW., lots 42, 43, 46 and 48, square 1440, be granted.

FINDINGS OF FACT:

- (1) The subject property is located in an R-1-B District.
- (2) The Board inspected the subject site on December 12, 1966 and found the property unimproved. The lots are in a valley and though level at MacArthur Blvd. rises approximately 50 feet to Hawthorne Place. There are numerous trees on the site.
- (3) Appellants propose to erect several single-family dwellings on the site. The site has difficult topography throughout and the houses have been designed and situated on the lots to preserve as much of the natural growth as possible.
- (4) Four of the proposed houses have sun decks that encroach on the required side yard for dwellings in the R-1-B District.
- (5) It is proposed to locate off-street parking under each sun deck.
- (6) The problem faced by appellant and which he believes to entitle him to a variance has to do with the application of the Regulations to determine which is the main floor of each building. Under one interpretation of the Regulations, the basement of each dwelling, containing the recreation room and the utility room, is

the main floor, and under this interpretation, the sundeck is considered to be a balcony although the sundecks are at the living room level.

(7) Appellant desires to develop the sites and retain as many trees as possible.

(8) Section 3305.1 provides that there be an eight (8) foot side yard for dwellings in the R-1-B District.

(9) No opposition to the granting of this appeal was registered at the public hearing.

OPINION:

We are of the opinion that appellant has proved a hardship within the meaning of the variance clause of the Zoning Regulations, that refusal to grant the relief requested will prevent a reasonable use of the property as zoned, and that the granting of this appeal will not adversely affect the use of neighboring property nor impair the intent, purpose and integrity of the zone plan.

Although appellant's lots deviate from the side yard requirements for lots in the R-1-B District, we conclude that the proposed development will enhance the neighborhood and will not be detrimental to nearby or surrounding property. The variances are only applicable to lots 42,43,46 and 48 in square 1440.